

REMARKS

The Examiner is requiring election to one of the following patentably distinct species of the claimed invention under 35 U.S.C. 121:

- I. The species of figure 2; and
- II. The species of figure 3.

Applicants hereby elect, with traverse, the species of Figure 2. Applicants assert that Claims 1, 3-18, 20-29 are readable upon the elected species of Figure 2. Further, Applicants assert that Claims 1, 3-17, 20-29 are generic.

The election is made with traverse due to the following:

- 1) the Examiner asserts that only Claims 1 and 14-17 are generic whereas Claims 1, 3-17, 20-29 are generic;
- 2) the Examiner has already issued three (3) substantive Office Actions on all the claims and thus has failed to make the required showing that examination of all the claims would present a serious burden on the Examiner; and
- 3) the restriction requirement is piecemeal examination.

Specifically, MPEP § 803, entitled "Restriction-When Proper", sets forth:

There are two criteria for proper requirement for restriction between patentably distinct inventions:

- (A) ...; and
- (B) **There must be a serious burden on the examiner if restriction is required ...** (pg. 800-4, August 2001, emphasis added.)

Further, MPEP § 803 sets forth:

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the **examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.**

That *prima facie* showing may be rebutted by

**appropriate showings or evidence by the applicant.**  
(pg. 800-4, August 2001, emphasis added.)

Applicants note that the United States and Patent Trademark Office has already issued three substantive Office Action dated: January 18, 2002; July 18, 2002; and October 8, 2002 on all pending claims. This demonstrates a lack of a serious burden on the Examiner to examine all pending claims.

Further, MPEP § 707.07(g) sets forth:

**Piecemeal examination should be avoided** as much as possible. (pg. 700-116, Rev. 1, Feb. 2003, emphasis added.)

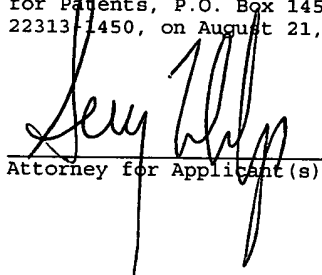
Applicants assert that a restriction requirement after three substantive office actions amounts to unwarranted piecemeal examination.

For at least the above reasons, restriction is not proper and Applicants hereby request reconsideration and withdrawal of the restriction requirement.

Claims 1, 3-29 are pending in the application. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

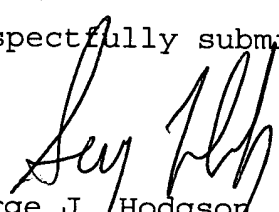
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 21, 2003.

  
Attorney for Applicant(s)

August 21, 2003  
Date of Signature

Respectfully submitted,

  
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